

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE ELECTRONIC BOOKS ANTITRUST
LITIGATION

This Document Relates to:

ALL ACTIONS

No. 11-md-02293 (DLC)
ECF Case

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING CLASS PLAINTIFFS' MOTION
FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

This matter came before the Court for hearing on December 6, 2013, pursuant to Class Counsel's Motion for Award of Attorneys' Fees, Reimbursement of Expenses, and Participation Awards for Named Plaintiffs. Having considered all papers filed and proceedings held herein, including the objections to the proposed fee application, and otherwise being fully informed in the premises, it is HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Court hereby awards to Class Counsel attorneys' fees in the amount of \$10,455,534.56 and reimbursement of expenses in the amount of \$750,465.44 for a total of \$11,206,000.

2. These amounts reflect the total that the five settling defendants (Macmillan, Penguin, HarperCollins, Hachette and Simon & Schuster) have agreed to pay Class Counsel under the three settlement agreements.¹

3. In making this award of attorneys' fees and reimbursement of expenses in the amounts described, the Court has considered and finds as follows:

a) The settlements provide significant monetary relief to the Settlement Classes.²

¹ See Settlement Agreement by and Among Holtzbrinck Publishers, LLC, d/b/a Macmillan and Plaintiff States and Settlement Class ("Macmillan Settlement Agreement") at 9, June 21, 2013, ECF No. 360-1 (providing for attorneys' fees and expenses for Class Counsel up to \$2,475,000); Settlement Agreement by and Among Penguin Group (USA), Inc. and Plaintiff States and Settlement Class ("Penguin Settlement Agreement") at 9, June 21, 2013, ECF No. 360-2 (providing for attorneys' fees and expenses for Class Counsel up to \$8 million); HarperCollins, *et al.* Settlement Agreement (between Class Plaintiffs and HarperCollins, Hachette and Simon & Schuster) ("HarperCollins, *et al.* Settlement Agreement") at 9, June 21, 2013, ECF No. 362-1 (providing for attorneys' fees and expenses for Class Counsel up to \$731,000).

² "Settlement Classes" refers, collectively, to the "Settlement Class" as defined in the HarperCollins, *et al.* Settlement Agreement (natural persons who purchased E-books published by the named publishers from April 1, 2010 until May 21, 2012, and who resided in Minnesota at the time of their E-book purchase) and the Settlement Class as defined in the Macmillan and Penguin Settlement Agreements (all natural persons who have purchased E-books published by

b) Notice of the settlements was sent to over 23 million consumers nationwide identified by retailers as eligible consumers. Only 72 consumers requested exclusion from the settlements, not all of whom were members of the Settlement Classes.

c) Class Counsel have conducted the action and achieved the settlements with skill, perseverance and diligent advocacy on behalf of the Plaintiffs and the Settlement Classes as a whole.

d) The action involves complex factual and legal issues and, in the absence of settlement, would involve further lengthy proceedings and uncertain resolution of such issues.

e) Had settlement not been achieved, there would remain a significant risk that the Settlement Classes may have recovered less or nothing from defendants, and that any recovery would have been significantly delayed.

f) The amount of attorneys' fees and reimbursable expenses awarded to Class Counsel is fair and reasonable given the number of attorney hours expended to achieve the settlements on behalf of Plaintiffs and the Settlement Classes as a whole, and the estimated value of the settlement benefits obtained for the Settlement Classes, and the amount awarded is consistent with awards for similar work in similar cases.

4. In making this award of attorneys' fees and reimbursement of expenses in the amounts described, the Court finds that the requested fees of \$10,455,534.56 are reasonable under the circumstances and justified.

the Named Publishers during the period from April 1, 2010 until May 21, 2012, who resided in one of the following states, territories or commonwealths at the time of their E-books purchase: American Samoa, California, Florida, Georgia, Guam, Hawaii, Kentucky, Maine, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Jersey, North Carolina, Northern Mariana Islands, Oklahoma, Oregon, Rhode Island, South Carolina, U.S. Virgin Islands, Washington, or Wyoming).

5. Class Counsel also requests reimbursement of \$750,465.44 in expenses. The Court has examined the breakdown of costs and finds them to be reasonable and appropriate for litigation of this size and complexity.

6. One objector, Christopher Batman, has objected to the proposed award of attorneys' fees. Mr. Batman resides in Texas and is represented by the Attorney General for the State of Texas in this action, not Class Counsel. He thus lacks standing to object to Class Counsel's attorneys' fees. The Court has nevertheless considered his objections and finds them to be without merit.

SO ORDERED.

DATED: November 6, 2013



HON. DENISE L. COTE
UNITED STATES DISTRICT COURT JUDGE